

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

**LAMAR FREEMAN AND
JULIE MAE FREEMAN**

PLAINTIFFS

v.

NO. 3:02-CV-00039 GTE

CATERPILLAR, INC., et al.

DEFENDANTS

**ORDER GRANTING BRIEF CONTINUANCE
AND RULING ON OTHER MOTIONS**

The Order addresses all pending motions, specifically: Plaintiff's Motion for Continuance, Plaintiff's Motion in Limine, Plaintiff's Request for Settlement Conference, and Defendant CAT's Motion for Extension of time.

Plaintiffs, in their Motion for Continuance, request a continuance based on a scheduling conflict. Defendants do not object. The Court notes that this is the second oldest case on its docket. It was filed over four years ago, on January 31, 2002. On June 15, 2004, it was reassigned to this judge from the docket of The Honorable Stephen M. Reasoner. Since the reassignment, this Court has granted two motions for continuance, both filed jointly. While the Court will permit a brief continuance, good cause is lacking for any significant delay.

The parties have agreed, at the Court's request, to a trial setting in Little Rock.¹ The Court hereby reschedules the trial of this case for **August 21, 2006**, in Little Rock. The Court will issue an Amended Scheduling Order separately setting forth other applicable deadlines.

¹ The Court has difficulty in scheduling cases in Jonesboro and would not have been able to reschedule this case in August absent the parties' agreement to try the case in Little Rock.

The Court is concerned about the age of this case. The parties are hereby directed to prepare this case for trial and to bring any issues that might delay the trial to the Court's attention immediately.

IT IS HEREBY ORDERED THAT Plaintiffs' Motion for Continuance (Doc. No. 32) be, and it is hereby, GRANTED. The new trial date is August 21, 2006. The parties are hereby directed to consult and comply with the Amended Scheduling Order being entered simultaneously herewith.

IT IS FURTHER ORDERED THAT Defendant's Motion for Extension of Time (Docket No. 31) be, and it is hereby, GRANTED. A new motion deadline and discovery cut-off date will be set forth in the Amended Scheduling Order.

IT IS FURTHER ORDERED THAT Plaintiffs' Motion for Order Directing Settlement Conference (Docket No. 26) be, and it is hereby, DENIED. The motion fails to indicate that both parties desire a settlement conference before a United States Magistrate.

IT IS FURTHER ORDERED THAT Plaintiffs' First Motion in Limine (Docket No. 27) be, and it is hereby, DENIED. After reviewing the motion papers and considering the totality of the circumstances, the Court concludes that Defendant Caterpillar should not be obligated to bear the cost of producing Dr. John Lochemes for deposition so that Plaintiffs' counsel can finish deposing him. Dr. Lochemes is not an expert witness for the Defendant, but rather is one of Plaintiff's treating physicians. On this record, the Court declines to shift this discovery cost to Defendant Caterpillar.

IT IS SO ORDERED this 21st day of April, 2006.

___/s/Garnett Thomas Eisele_____

UNITED STATES DISTRICT JUDGE